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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,894	07/11/2001	Paul John Feluch	PAT 554-2	7868

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EXAMINER

LE, JOHN H

ART UNIT PAPER NUMBER

2863

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/901,894

Applicant(s)

FELUCH, PAUL JOHN

Examiner

John H Le

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-- Th MAILING DATE of this communication appears on th cover sheet with the correspond nce address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/11/2004 has been entered.

### ***Drawings***

2. The drawings is objected to under 37 CFR 1.84 for the reasons set forth by the draftsman in the Office Action mailed on 04/18/2003. Correction is required.

### ***Claim Objections***

3. Claims 12 and 19 are objected to because of the following informalities: Claim 12, line 1, "claim 11" should be changed to – claim 2-- (claim 11 has been cancelled).

Claim 19 recites the limitation "the central computer" in line1. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6-10, 12-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Tubel (US 6,464,011).

Regarding claim 1, Tubel teaches a data acquisition system for collecting and storing oil/gas production data from a plurality of geographically separated oil/gas production wells and for monitoring and controlling oil/gas well production and pumping equipment at individual oil/gas production wells (e.g. Figs.1-6, Col.1, lines 14-21, Col.10, lines 5-8, lines 19-33), the data acquisition system comprising: a data collection and control device (device 22) adapted for operative connection to individual geographically separated oil/gas well production and pumping equipment for collecting production data from individual oil/gas production wells, for collecting operating data of the oil/gas well production and pumping equipment and for controlling the individual oil/gas well production and pumping equipment (e.g. Figs.1-6, Col.15, lines 28-63); wherein the data collection and control device includes a processor (processor 50) for receiving the production and operating data of the individual oil/gas well production and pumping equipment, for providing instructions to the individual oil/gas well production and pumping equipment (e.g. Fig.6, Col.5, lines 6-20, Col.15, lines 28-62) and for reporting the individual production and operating data to a computer 30 via a wired or wireless interface (transceiver 52)(e.g. Col.5, lines 21-

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24, Col.6, lines 32-45, Col.16, lines 17-25, Col.18, lines 56-67); wherein the data collection and control device includes data storage memory (recorder 66A) operatively connected to the processor 50 for storing production and operating data prior to reporting to the computer 30 (the information sent to the surface constitutes derived data in a form well suited for analysis)(e.g. Col.16, lines 17-25, Col.18, lines 56-67).

Regarding claim 2, Tubel teaches the data acquisition system includes the computer 10 and the computer is any one of or a combination of a central computer in operative connection with a plurality of data collection and control devices each connected to respective oil/gas production wells or a portable computer adapted for operative connection to a data collection and control device at an individual oil/gas well (e.g. Fig.1, Fig.4, Col.9, lines 32-48, Col.10, lines 5-21).

Regarding claims 3 and 9, Tubel teaches the data collection and control device further includes an operator input system for receiving commands from an operator and a display system for displaying processed or unprocessed production data and operating parameters of the pumping system (e.g. Col.10, lines 39-46, Col.14, lines 48-56).

Regarding claims 4 and 10, Tubel teaches the data collection and control device further includes any one of or a combination of a digital or analog input/output device operatively connected to the processor and wherein the digital and/or analog output devices are for operative connection to one or more

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production sensors or controls at an individual oil/gas well (e.g. Fig.7, Col.16, line 53-Col.17, line 15).

Regarding claims 6 and 12, although Tubel is silent on the teaching of the claimed the computer includes software having a central management module for managing the collection, analysis and reporting of production data from data collection and control devices, this feature is seen to be an inherent teaching of that software since the devices downhole may be programmed while in the wellbore by sending the proper command and data to adjust the parameters being monitored due to changes in borehole and flow conditions and/or to change its primary function in the wellbore (Col.6, lines 40-45), the non-volatile memory 82 stores the code commands used by the micro controller 70 to perform its functions downhole (Col.17, lines 35-37). Information sent from the surface to transceiver 52 may consist of actual control information, or may consist of data, which is used to reprogram the memory in processor 50 for initiating of automatic control based on sensor information. In addition to reprogramming information, the information sent from the surface may also be used to recalibrate a particular sensor. Processor 50 in turn may not only send raw data and status information to the surface through transceiver 52, but may also process data downhole using appropriate algorithms and other methods so that the information sent to the surface constitutes derived data in a form well suited for analysis (Col.18, lines 56-67), that some type of the computer includes software having a central management module for managing the collection, analysis and reporting of production data must be present for purpose of

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providing a data acquisition system for collecting data from at least one production well as intended.

Regarding claims 7 and 13, Tubel teaches the central management module is operatively connected to a communication interface for sending and receiving data to and from the data collection and control device (e.g. Col.15, lines 28-31, Col.16, lines 26-39).

Regarding claim 8, Tubel teaches the central management module includes a control module for sending control instructions to the data collection and control device (e.g. Col.15, lines 53-62, Col.16, lines 26-39).

Regarding claim 14, Tubel teaches the central management module includes a control module for sending control instructions to the production controls through the data collection and control device (e.g. Col.15, lines 38-62, Col.16, lines 26-39).

Regarding claim 15, Tubel teaches a data acquisition system for collecting data from at least one oil/gas production well (e.g. Figs.1-6, Col.5, lines 6-20, Col.10, lines 22-33) comprising: a data collection and control device (device 22) adapted for operative connection to oil/gas well production equipment for obtaining and storing production data from an oil/gas production well and for providing control instructions to the production equipment (e.g. Figs.1-6, Col.10, lines 5-33, Col.15, lines 28-63, Col.16, lines 17-25); a central computer (device 24) operatively connected to the data collection and control device (device 22) for receiving production data from the data collection and control device (e.g. Col.21, lines 45-61) and for sending control instructions to the production equipment via

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a wired or wireless interface (e.g. Col.14, lines 52-56, Col.15, lines 28-63), wherein the central computer includes: a management module for managing the collection, analysis and reporting of oil/gas well production data from the data collection and control device (e.g. Col.14, lines 48-51); an oil/gas well production data database (e.g. Col.14, lines 48-51, Col.16, lines 17-25); a wired or wireless interface (wireless transceiver 34)(e.g. Col.10, lines 53-62); a graphical display module for displaying production data from the an oil/gas well production data database (e.g. Col.14, lines 48-51, Col.16, lines 17-25).

Although Tubel is silent on the teaching of the claimed a reporting module for formatting reports from the oil/gas well production data database, this feature is seen to be an inherent teaching of that a reporting module since the data acquisition system 54 will preprocess the analog and digital sensor data by sampling the data periodically and formatting it for transfer to processor 50 (Col.15, lines 31-45), the information sent to the surface constitutes derived data in a form well suited for analysis (Col.18, lines 56-67), that some type of a reporting module for formatting reports from the oil/gas well production data database must be present for purpose of providing a data acquisition system for collecting data from at least one production well as intended.

Regarding claim 16, Tubel teaches a method of collecting data from an oil/gas production well (e.g. Col.15, lines 28-45) comprising the steps of:

- a) operatively connecting a data collection and control device to oil/gas well production equipment at a well (e.g. Col.15, lines 28-62, Col.16, lines 17-25);
- b) storing oil/gas well data at the oil/gas well (e.g. Col.16, lines 17-25); and



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c) uploading production data from the data collection and control device (downhole control system 22) via a wired or wireless link (transceiver system 52) to a computer (surface device 24)(e.g. Fig.6, Col.15, lines 28-62).

Regarding claim 17, Tubel teaches the step of sending a control instruction to the oil/gas well production equipment from the central or portable computer (e.g. Col.15, lines 53-62).

Regarding claim 18, Tubel teaches the processor automatically adjusts the oil/gas well production and pumping equipment in response to oil/gas well production and operating data from an individual oil/gas well (e.g. Col.6, lines 40-45, Col.28, lines 33-43, Col.28, line 65-Col.29, line 5).

Regarding claim 19, Tubel teaches the central computer and data collection and control device are operatively connected by a combination of or a combination of a public switched telephone, a cellular telephone, a satellite communication network or the Internet (e.g. Col.14, lines 2-12).

### ***Response to Arguments***

6. Applicant's arguments filed 05/11/2004 have been fully considered but they are not persuasive.

-Applicant argues that the prior did not teach, "a data collection and control device including storage memory for operatively connection to the oil/gas well production facility ".

Tubel teaches the data collection and control device (device 22) includes data storage memory (recorder 66A) operatively connected to the processor 50 for storing production and operating data prior to reporting to the computer 30

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(the information sent to the surface constitutes derived data in a form well suited for analysis)(e.g. Col.15, lines 28-62, Col.16, lines 17-25, Col.18, lines 56-67).

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John H Le whose telephone number is 571-272-2275. The examiner can normally be reached on 9:00 - 5:30.

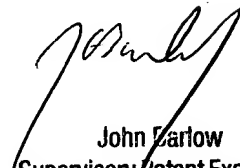
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John H. Le

Patent Examiner-Group 2863

June 16, 2004

  
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